COURT NO.3

Writ Petition No. 208 of 2003

Bikram Singh Chauhan …….Petitioner

Versus

Regional Joint Education Director (Basic)
Garhwal Mandal,
Pauri Garhwal and others ……..Respondents

Hon'ble Irshad Hussain, J.

Heard Sri Lok Pal Singh, learned counsel for the petitioner and Sri J.P. Joshi learned counsel for the respondent no. 1-3 and Sri B. S. Verma, learned counsel for the respondent No. 4.

In this petition, the appointment of the Controller of the unaided institution appointed by the respondent No. 1 by order dated 17.2.2003 has been challenged. The copy of the said order was not filed on record, in view of the same was not received by the petitioner. There is reference to this order in the communication dated 24.2.2003 annexure-11, sent to the respondent no.3 who was appointed as Controller of the institution. The grievance of the petitioner is that the respondent no. 1 has no legal right to appoint the Controller of the institution. The learned counsel for the parties agree that in a situation like this and, particularly when the members of the Management Committee having expired on 31.8.2003 and the teachers not being paid salary since April 2003,the authority as provided under the bye-laws of the institution was required to look after the affairs of the institution and comply the financial obligation till the new Management Committee is constituted. Section 12 of the U.P. Basic Education Act, 1972 does not ex-facie imply that under the powers to have a control over the institution the Basic Shiksha Adhikari can appoint Controller of the unaided institution. Perusal of the bye-laws annexure-1 and particularly clause 4(च) stipulated that in the event of expiry of the term of the Management Committee, the powers of the Management Committee shall vest in the patron. Respondent No. 4 is the patron of the institution and it is informed that Asstt. Engineer of the Administrative Block, Research Institution is the officiating patron under the ye-laws. Respondent no. 4 had been transferred and new incumbent has joined on his place and by virtue of the bye-laws, the new incumbent has become the patron of the said institution.

Considering the above aspects of the matter, the learned counsel for the parties agree that till the Management Committee of the institution is constituted the patron will have the right to manage the affairs of the

institution rather than the controller to be appointed by the Regional Joint Director (respondent no.1.)

Since the learned counsel do not dispute this legal aspect of the matter, the impugned order of appointment of the Controller is to be set aside and the new patron who has joined on the post of Asstt. Engineer, Administrative Block, Research Institution, Bahadrabad, District Haridwar will look after the affairs of the institution and shall exercise all the financial powers till the new Management Committee is constituted according to the bye-laws of the institution. The patron shall take steps for payment of the salary to the teachers and staff of the institution at the earliest.

The patron is further directed to hold a fresh election of the Management Committee at the earliest preferably within one month from the date of the receipt of the copy of the o order. The petitioner shall handover the charge of the institution at once to the patron.

With these directions, the petition is finally disposed of.

(Irshad Hussain, J.)

Dated 22.10.2003
Rawat